

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL BERIGUETE,

Plaintiff,

**ANSWER**

-against-

Index No.: 12-CV-01559 (JPO)

STATE RECOVERY, INC., NISSAN MOTOR  
ACCEPTANCE CORPORATION, ASSET  
MANAGEMENT OUTSOURCING RECOVERIES,  
INC. d/b/a AMO RECOVERIES, U.S. RECOVERY,  
INC. d/b/a NYC RECOVERY, CHUCK MCQUISTION  
and JOHN DOES # 1-5,

Defendants.

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The defendant, **ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC.**  
**d/b/a AMO RECOVERIES**, by its attorneys, The Law Offices of Edward Garfinkel, as and for  
an answer to the complaint of the plaintiff herein, respectfully allege(s) upon information and  
belief:

**JURISDICTION AND VENUE**

**FIRST:** Denies knowledge or information sufficient to form a belief as to the  
allegations contained in paragraph **3** of the complaint.

**SECOND:** Denies knowledge or information sufficient to form a belief as to the  
allegations contained in paragraphs **4, 5, 7 and 8** of the complaint and respectfully refers all  
questions of law to the court.

**THIRD:** Denies paragraphs **1 and 2** of the complaint and respectfully refers all  
questions of law to the court.

**FOURTH:** Denies paragraph **6** of the complaint and respectfully refers all questions  
of law to the Court Except Admits that ASSET MANAGEMENT OUTSOURCING

RECOVERIES, INC. d/b/a AMO RECOVERIES is a corporation organized and existing under the laws of the State of Georgia, with a principal place of business at 5655 Peachtree Parkway, Norcross, Georgia 30922.

**STATEMENT OF FACTS**

**FIFTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 40, 41, 42, 43, 44, 46 and 47** of the complaint.

**SIXTH:** Denies paragraphs **49 and 52** of the complaint.

**SEVENTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs **24 and 38** of the complaint and respectfully refers all questions of law to the court.

**EIGHTH:** Denies paragraphs **15, 31, 32, 39, 45 and 48** of the complaint and respectfully refers all questions of law to the court.

**NINTH:** Denies each and every allegation set forth in paragraph **53** of the complaint except admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES called Mr. Beriguete directly and sent a collection letter directly to Mr. Beriguete and respectfully refers all questions of law to the court.

**TENTH:** Denies each and every allegation set forth in paragraphs **54** of the complaint except admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES spoke with and called Mr. Beriguete after counsel from Mr. Beriguete could not be contacted.

**ELEVENTH:** Denies paragraph **50** of the complaint and respectfully refers all questions of law to the Court Except Admits that Beginning in November 2011, Mr. Beriguete

was contacted by ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES.

**TWELFTH:** Denies paragraph **51** of the complaint and respectfully refers all questions of law to the Court Except Admits that ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES, in November 2011 contacted Rafael Beriguete in connection with a debt owed to Nissan.

**A. COUNT # 1: VIOLATIONS OF THE FEDERAL FAIR DEBT COLLECTION PRACTICED ACT (AS TO ALL DEFENDANTS)**

**THIRTEENTH:** Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph **55** of the complaint.

**FOURTEENTH:** Admits paragraph **62** of the complaint.

**FIFTEENTH:** Denies paragraphs **61 and 65** of the complaint.

**SIXTEENTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraph **60** of the complaint and respectfully refers all questions of law to the court.

**SEVENTEENTH:** Denies paragraphs **56, 57, 58, 59, 63, 64 and 66** of the complaint and respectfully refers all questions of law to the court.

**B. COUNT # 2: REPOSSESSION ATTEMPTED WITH BREACH OF PEACE IN VIOLATION OF UNIFORM COMMERCIAL CODE § 9.609 (AS TO ALL DEFENDANTS EXCEPT AMO)**

**EIGHTEENTH:** Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph **67** of the complaint.

**NINETEENTH:** Denies paragraph **68** of the complaint.

**TWENTIETH:** Denies paragraphs **69 and 70** of the complaint and respectfully refers all questions of law to the court.

**C. COUNT # 3: - U.C.C. VIOLATIONS OTHER THAN BREACH OF THE PEACE  
(BY NMAC ALONE)**

**TWENTY-FIRST:** Repeats the admissions and denials to the paragraph of the complaint repeated and realleged in paragraph 71 of the complaint.

**TWENTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 72, 73, 74 and 76 of the complaint and respectfully refers all questions of law to the court.

**TWENTY-THIRD:** Denies paragraph 75 of the complaint.

**D. COUNT # 4: VIOLATIONS OF N.Y. PERS. PROP. LAW, CH. 41, ART. 10 FOR  
FAILURE TO PROVIDE NOTICE OF DEFAULT AND RIGHT TO CURE**

**TWENTY-FOURTH:** Repeats the admissions and denials to the paragraph(s) of the complaint repeated and realleged in paragraph 77 of the complaint.

**TWENTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the allegations contained in paragraphs 78, 79, 80, 81 and 83 of the complaint.

**TWENTY-SIXTH:** Denies paragraphs 82 and 84 of the complaint and respectfully refers all questions of law to the court.

**E. JURY DEMAND**

**TWENTY-SEVENTH:** Denies paragraph 85 of the complaint and respectfully refers all questions of law to the court.

**F. PRAYER**

**TWENTY-EIGHTH:** Denies paragraphs 86 of the complaint and respectfully refers all questions of law to the court.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

That the plaintiff's cause of action is barred by the applicable statute of limitations.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

Any alleged violations of the Fair Debt Collection Practices Act were not intentional, but resulted from a bona fide error notwithstanding the maintenance of procedures reasonably implemented to prevent such errors.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

Plaintiff fails to state facts sufficient to state a cause of action.

WHEREFORE, the defendant, **ASSET MANAGEMENT OUTSOURCING RECOVERIES, INC. d/b/a AMO RECOVERIES**, demands judgment dismissing the Complaint of the plaintiff(s) herein together with attorneys' fees and the costs and disbursements of this action.

Dated: Brooklyn, New York  
November 30, 2012

Yours etc.,  
The Law Offices of Edward Garfinkel  
Attorneys for Defendant,  
**ASSET MANAGEMENT OUTSOURCING  
RECOVERIES, INC. d/b/a AMO  
RECOVERIES**  
By: Kevin Barry McHugh  
12 Metrotech Center, 28<sup>th</sup> Floor  
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(718) 250-1100  
Our File No.: NYNY-30393

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Defendants.  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 30, 2012 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants.

  
Kevin Barry McHugh

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